IN THE HIGH COURT OF JUDICATURE AT BOMBAY

IN INSOLVENCY

PETITION NO. 23 OF 2007.

Re : Kishinchand S.Loungani . . . . . Debtor.

Ex-parte :
Anju Subhash Valecha, ... Petitioning Creditor.

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Mr. R. D. Dave, Advocate i/by M/s. N.N.Vaishnawa & Co., Advocates for the Petitioning Creditor.

CORAM : A.M.KHANWILKAR J.
NOVEMBER 26, 2007.

P. C.

1. The present Petition is founded on the Summons for Judgement No.254 of 2004 against debtor on 13th April 2005 in Summary Suit No. 340 of 2004. As the debtor failed to pay the amount, Insolvency Notice No. N-115 of 2006 dated 29th June 2006 was issued, which was duly served on the debtor on 29th June 2006.

The Debtor took out a Notice of Motion bearing No.135 of 2006 for setting aside the aforesaid Insolvency Notice No. N-115 of 2006, in which conditional Order was passed by His Lordship Dr. Shri. Justice D. Y. Chandrachud J. on 20th December 2006. The Debtor did not comply with the order dated 20-12-2006 and has committed default in payment of 2nd Instalment as per clause (ii) (a) of the said order dated 20th December 2006. Inspite thereof, debtor failed to pay the decretal amount. In that sense, act of insolvency was completed on 7th February 2007.

As the debtor failed to pay the amount or offer any explanation for non-payment, Petitioning Creditor has had no option but to take out the present action, which has been filed on 13th March, 2007. The debtor has been duly served on 27th April, 2007 in the present action, Inspite of such service, none appears for the debtor. No reply has been filed. Inspite of such service, none appears for the debtor. No reply has been filed. As no explanation has been offered on behalf of the debtor, Petition ought to succeed in terms of prayer clauses (a) and (b).

(a) That an order of adjudicating the Debtor as insolvent may be passed and he may be adjudicated insolvent.

(b) Costs of this Petition be provided for.

. Ordered accordingly.

A. M. KHANWILKAR, J.